



ZILKA-KOTAB, PC
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JAN 10 2006

OFFICE OF PETITIONS

In re Application of :
Douglas Werner :
Application No. 10/601,021 : **DECISION GRANTING PETITION**
Filed: June 19, 2003 :
Attorney Docket Number: HIT1P020A/SJO9- :
2001-0068U :

This is a decision on the petition to withdraw the holding of abandonment, filed May 5, 2005 and resubmitted June 27, 2005, which is treated under 37 CFR 1.181.

The petition is **GRANTED**.

This application became abandoned for failure to timely respond to a non-Final Office Action mailed August 26, 2004. This application became abandoned on November 27, 2004. Accordingly, the Notice of Abandonment was mailed June 15, 2005.

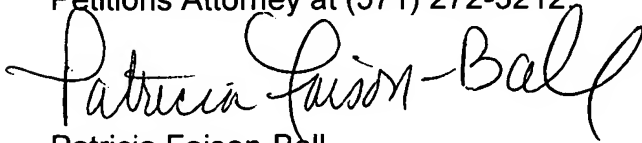
The file record discloses that the non-Final Office Action was mailed to the address of record. However, petitioner contends that it was not received. The file record discloses that the non-Final Office Action was mailed August 26, 2004 to the address of record. However, petitioner contends that it was not received. In support of this contention, petitioner argues that a search of the file jacket and the docket records does not reveal that the office communication was received and further, includes copies from the docketing system, wherein receipt of the non-Final Office Action would have been entered, had it been received, accompanies the petition.

Additionally, a review of the USPTO files reveal that the office communication was returned to the USPTO by the United States Postal Service on August 26, 2004 and no apparent reason can be determined since it appears that the address of record was placed on the correspondence.

In view of the facts set forth in the petition, it is concluded that the non-Final Office Action was never received. Accordingly, the holding of abandonment is withdrawn. Since no petition fee is due, a refund in the amount of \$130.00 will be credited to deposit account 50-2587 for the fee paid with the petition filed May 5, 2005.

This matter is being referred to Technology Center 3729 for a re-mailing of the non-Final Office Action, previously mailed August 26, 2004 but not received.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P" and a long, sweeping underline.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions